

B13-01



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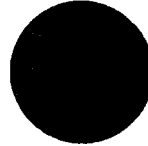
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MONTGOMERY COUNTY FIRE BOARD

April 17, 2001

Honorable Council Members
Montgomery County Council
Stella Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850



037973

RE: Testimony to Bill 13-01 Collective Bargaining -- Fire/Rescue Employees

Dear Council Members:

The Montgomery County Fire Board, representing the nineteen Local Fire and Rescue Departments, appreciates the opportunity provided by law to comment on proposed legislation contemplated by the Montgomery County Council. To that end, we are pleased to advise the Montgomery County Council on matters concerning the Bill 13-01, Collective Bargaining -- Fire/Rescue Employees.

This proposed amendment to the County Code would modify Chapter 33, Sections 33-148 and 33-151, wherein the career fire and rescue lieutenants and captains would become part of the same collective bargaining unit as other fire and rescue employees whom they supervise. The Fire Board has concerns and is opposed to such action that would place management and supervisory personnel in a position that would compromise their ability to effectively manage those whom they are responsible for supervising.

We are disappointed that the County Executive forwarded this bill for consideration without thoughtful consideration and contact with appropriate Montgomery County Fire and Rescue Service (MCFRS) stakeholders, especially the Fire and Rescue Commission, the County's regulatory authority for the Service. It is also troublesome to see that such a measure would be introduced to Council without first seeking input from the Local Fire and Rescue Departments' Boards of Directors, which comprise the County's private management partners.

We are concerned that without management representation within the Local Fire and Rescue Department stations, the interests of both partners, County Government and the corporate entity of the Local Fire and Rescue Departments, will not be served under this measure. This initiative is believed to have a number of shortcomings associated with it.

With that in mind, the Fire Board has several specific points to be considered:

- No. 1 The County would do well to look to the structure of the National Labor Relations Act (NLRA), which governs private sector employment. It contemplates that management is to have the right to demand the absolute loyalty of its supervisors. Towards that end, the employer has the absolute right to keep supervisors out of any bargaining unit. The point under the NLRA, therefore, is that supervisors should owe complete allegiance to management, which they cannot have if they also have allegiance to the union, which marches in the opposite direction. The only ones left who can be depended on to tow management's position, will be the chiefs who, effectively, will be turned into micromanagers rather than leaders.
- No. 2 The above point is underscored by virtue of the power of the union to sanction its members for violation of union rules. So, for instance, if the union enacts an internal rule to ban captains from chastising a subordinate fellow member, the union would then be able to sanction the captain for disciplining a firefighter who, for instance, failed to follow an order to wear his/her protective clothing properly. The net effect can be to allow the union to control the management and supervision of the department through the union's power to sanction and discipline supervisors as mere members. Followed to its inexorable end, the union would be able to completely cripple management simply through its union power to control members for not following union policy.
- No. 3 In theory, the object of collective bargaining is to equalize the power of labor to that of management. But, when management jumps into the union side of the seesaw, the desired equilibrium is destroyed.

There unfortunately already exists in Montgomery County, the situation where many of the present lieutenants and captains are already dues paying members of the union, thus, calling to question their loyalties as managers in the Service. The lack of any consistent discipline at the field level in the fire service is testament to the argument that supervisors should not be in the same bargaining unit as those they are paid to supervise. To make matters even worse, even the highest level of management continues to be allowed to participate in the union, even if the collective bargaining does not apply. Even a past Director of the Department of Fire and Rescue Services remarked that he was still a dues paying member of the union. The Council not only needs to defeat this bill, but also should consider a measure prohibiting the practice of any manager remaining affiliated with the union representing those whom they are assigned to manage.

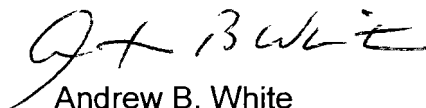
No. 4 If the County, notwithstanding, wants to give the lieutenants and captains "a say in wages and benefits," there are alternatives. The County could, with relative ease, form a committee of captains and lieutenants and solicit their input in determining wages and benefits (without bargaining and without putting them in their subordinates' bargaining unit).

The County would be wise to learn from the mistakes made in our neighboring counties. For instance, Ann Arundel County, according to information contained in County Executive Douglas M. Duncan's letter to the Council introducing this bill, at one time allowed lieutenants and captains to be members of the collective bargaining unit, and later rescinded that practice. When the Fire Board inquired as to why this practice was discontinued, Fire Administrator Gordon Aoyagi, on April 4, 2001, reasoned that it was likely because the lieutenants and captains are supervisors. When asked further if Montgomery County's lieutenants and captains are considered supervisors, he answered that they indeed are. That recent exchange of questions and answers again demonstrates how Montgomery County, and specifically the fire and rescue service, fails to properly distinguish the relationship between management and labor.

In closing, it has been brought to our attention that even some of the lieutenants and captains who would supposedly "benefit" from enactment of this bill are publicly opposed to it for some of the very reasons listed above. Those officers should be commended for their leadership and ability to recognize what is best for the County and its citizenry. They clearly recognize that what has been characterized as a "side-by-side" working relationship with their subordinates never relieves them of their responsibility to make effective management and supervisory decisions and represent the management ideals of County Government.

Therefore, the Fire Board recommends that the Montgomery County Council **REJECT Bill 13-01, Collective Bargaining -- Fire/Rescue Employees**, as it is not in the best interests of the Montgomery County Fire and Rescue Service, nor is it consistent with the needs of the citizens of Montgomery County. Should you wish to discuss this further, please feel free to contact me on 301-929-8000.

Sincerely,


Andrew B. White
Chairperson

